

REMARKS

I. Introduction

Pursuant to the above-noted Office Action, claims 1-23, 25-31, and 36-39 were rejected under 35 U.S.C. 103(a) given Schmutz (U.S. 2001/0031621) ("Schmutz") in view of Durrant et al. (U.S. Patent No. 6,501,955) ("Durrant"). Claims 24, 34, and 35 were rejected under 35 U.S.C. 103(a) given Schmutz in view of Durrant and Fischer et al. (U.S. Patent No. 6,353,728) ("Fischer"). Claims 32 and 33 were rejected under 35 U.S.C. 103(a) given Schmutz in view of Durrant and Dinkins (U.S. Patent No. 5,633,876) ("Dinkins"). Claim 40 was rejected under 35 U.S.C. 103(a) given Schmutz in view of Durrant and Argyroudis (U.S. Patent No. 5,892,758) ("Argyroudis"). Claims 41-45 were rejected under 35 U.S.C. 102(e) given Durrant. These rejections are respectfully traversed and reconsideration requested.

II. §102 and §103 Rejections of Claims 1 through 45

A. Independent claims 1 and 41

(i) Durrant does not disclose, teach, or suggest the additional features as amended in independent claims 1 and 41

Claims 1 through 45 have been rejected under 35 U.S.C. §§ 102(e) and 103 on the basis of Schmutz, Durrant, Fischer, Dinkins, and Argyroudis. In response, Applicants amend independent claims 1 and 41 to include the features of canceled claims 11, 14, and 27 and respectfully traverse. In particular, Applicants respectfully submit that a selective allocation at the base site is not the same as any activation decisions a repeater makes, such as repeating when a threshold is exceeded.

Durrant, as correctly cited by the Examiner, discloses a method to activate repeaters if the received signal is above a particular threshold, but any signal thresholding by a repeater, as in Durrant, is only indicative of signal quality between the transmitter and the relay. In contrast, independent claims 1 and 41 are directed to a signal quality between the transmitter and the base site. Since, according to Durrant, the threshold operation is at the repeater and not at the base site, quality of service cannot be improved when the base site is closer to the transmitter than the relay and/or in various other scenarios, such as a lower

shadowing to the base site than the relay, etc. This is true even if the threshold is exceeded at the repeater. Thus, contrary to the Examiner's assertion, Durrant cannot disclose "at a base site[,] . . . automatically determining whether to selectively allocate a wireless relay resource to thereby at least attempt to increase a quality of service to support the wireless transmission from the transmitter that is presently within communications range of the base site" (claim 1) and "a relay resource activator . . . such that a relay resource having a demodulation processing relay resource can be selectively activated by the communications controller to improve quality of service for a wireless transmission from the remote unit when transmitting within reception range of the receiver" (claim 41).

Moreover, in Durrant, because all transmissions of the users that exceed the threshold are relayed, which is independent of the threshold value or whether the threshold value can be dynamically controlled, the threshold at the repeater is not selectively repeating a particular user transmission. In contrast, claims 1 and 41 require an instruction to provide at least identifying information regarding the transmitter and to cause the wireless relay resource to relay at least portions of the wireless transmission from the transmitter. In other words, the threshold at the repeater in Durrant applies to all transmissions of the users, whereas the selective allocation of relay resource applies to a particular transmission from a single transmitter. As a result, contrary to the Examiner's assertion, there is simply no reason, according to Durrant, to provide an instruction with identifying information regarding the transmitter, because all the transmissions are treated the same way. Consequently, for all these reasons, Durrant also does not disclose, teach, or suggest "providing an instruction to the wireless relay resource to cause the wireless relay resource to relay at least portions of the wireless transmission from the transmitter, wherein the instruction comprises providing at least identifying information regarding the transmitter" (claim 1) and "a relay resource activator that . . . provides an instruction to the relay resource to cause the relay resource to relay at least portion so the wireless transmission from the transmitter, wherein the instruction comprises providing at least identifying information regarding the transmitter" (claim 41).

(ii) Even if arguendo the cited references disclose the recited features of amended claims 1 and 41, there is no suggestion or motivation from the cited references to make the asserted combination, because Durrant teaches away from a selective allocation of relay resource for a particular transmitter

As described above, Durrant discloses an allocation threshold that applies to all transmissions. Specifically, the analog radio frequency repeater, in Durrant, repeats any user in the selected area that exceeds the threshold. At the same time, the Examiner asserts that "in order for said base station to allocate the repeater for said mobile station, said base station must provide the identity of said mobile station to said repeater so that said repeater will relay data from the correct mobile station." See *Office Action of May 19, 2005*, page 10. The problem with this assertion is that if the threshold is to apply to all transmissions, there is no reason to separately identify each mobile station.

As a result, no suggestion or motivation can reasonably be drawn from Durrant to include an instruction that provides identifying information regarding the transmitter, as required in claims 1 and 41, since it specifically teaches away from the combination because the analog radio frequency repeater in Durrant simply cannot make use of the identity of the mobile station. In fact, this counters the purpose of Durrant of enhancing Signal to Interference and Noise Ratio in the selected area. Applicants respectfully submit that the Examiner has improperly used hindsight in asserting the § 103 rejection of obviousness using the Schmutz and Durrant references. Thus, for all these reasons, Applicants request that the rejection of independent claims 1 and 41 be withdrawn.

B. Dependent claims 2-40 and 42-45

Since Applicants canceled claims 11, 26, and 27, the rejection of these dependent claims is now moot and has been previously addressed through their corresponding independent claims 1 and 41. The remaining dependent claims 2-10, 12-25, 28-40, and 42-45 ultimately depend respectively upon independent claims 1 and 41, which have been shown allowable above. Moreover, they introduce additional content that, particularly when considered in context with the claims from which they depend, comprises additional

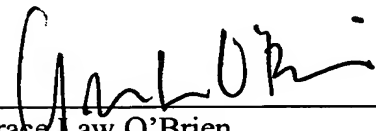
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incremental patentable subject matter. Applicants reserve the right to present further arguments in the future with regard to these dependent claims in the event that their corresponding independent claims are found to be unpatentable. For all these reasons, Applicants respectfully submit that claims 2-10, 12-25, 28-40, and 42-45 may be passed to allowance.

C. Conclusion

There being no other objections to or rejections of the claims, Applicants respectfully submit that claims 1-10, 12-25, and 28-45 may be passed to allowance.

Respectfully submitted,

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